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REFER TO OUR FILE NO.

Via email lcchisholm@perb.ca.gov and U.S. Mail

Suzanne Murphy and Les Chisholm
Public Employment Relations Board
1031 – 18th Street
Sacramento, CA 95811-4124

**Re: PERB Staff Discussion Draft dated November 14, 2011 re AB 646
Implementation**

Dear Ms. Murphy and Mr. Chisholm:

Since we submitted our initial comments on this matter, the PERB staff has revised its draft proposed regulations with respect to the events triggering an employee organization's request for factfinding. (See Staff Discussion Draft Re AB 646[November 14 Version], posted on PERB's website.) We are pleased that the revised draft recognizes the legislative intent to provide subject employee organizations with the absolute right to request factfinding, irrespective of whether any mediation is held. The initial draft proposed regulations issued by the PERB staff appeared only to recognize mediation as the trigger for a factfinding request, a position which we viewed as contrary to the legislative intent and as inviting protracted litigation to seek clarification. Accordingly, we support the PERB staff's November 14 draft, which clarifies that an employee organization may request factfinding following appointment of a mediator *or* following written notice of a declaration of impasse.

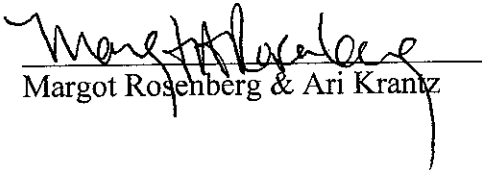
Once it is clarified that factfinding may be triggered by either mediation or a declaration of impasse, the timelines set forth in the November 14 staff discussion document make sense, as they track the statute itself, which in essence provides for a 30-day period - during which the parties may avail themselves of the assistance of a mediator - to focus their attempt to reach agreement prior to having to change course and prepare for an adversarial factfinding proceeding. (See Government Code § 3505.4(a), providing for a 30-day period to "effect settlement of the controversy," prior to requesting factfinding.) Of course, and perhaps it goes without saying, any time limit set by the regulations would be subject to mutual modification or extension.

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We appreciate your continued consideration of these comments and your close attention to these important matters.

Very truly yours,

LEONARD CARDER, LLP

By: 
Margot Rosenberg & Ari Krantz